



## Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

# Fiscal Note

**Drafting Number:** LLS 22-0204  
**Prime Sponsors:** Rep. Gray  
Sen. Winter

**Date:** February 3, 2022  
**Bill Status:** House Judiciary  
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**Bill Topic:** COLORADO FALSE CLAIMS ACT

**Summary of Fiscal Impact:**

- State Revenue
- State Expenditure
- State Transfer
- TABOR Refund
- Local Government
- Statutory Public Entity

The bill establishes penalties, procedures, and limitations regarding any individual who defrauds the state, a county, or a municipality. It increases state and local revenue and expenditures on an ongoing basis beginning in FY 2022-23.

**Appropriation Summary:** For FY 2022-23, the bill requires an appropriation of \$13,568 to the Legislative Department. See State Appropriations section for additional detail.

**Fiscal Note Status:** The fiscal note reflects the introduced bill.

**Table 1**  
**State Fiscal Impacts Under HB 22-1119**

		Budget Year FY 2022-23	Out Year FY 2023-24
<b>Revenue</b>	Cash Funds	at least \$300,000	at least \$300,000
	<b>Total Revenue</b>	<b>at least \$300,000</b>	<b>at least \$300,000</b>
<b>Expenditures</b>	General Fund	\$13,568	\$12,826
	Cash Funds	\$208,060	\$234,953
	Centrally Appropriated	\$55,157	\$65,443
	<b>Total Expenditures</b>	<b>\$276,785</b>	<b>\$313,222</b>
	<b>Total FTE</b>	<b>1.6 FTE</b>	<b>2.0 FTE</b>
<b>Transfers</b>		-	-
<b>Other Budget Impacts</b>	General Fund Reserve	\$2,035	\$1,924

## **Summary of Legislation**

The bill establishes the Colorado False Claims Act, which establishes penalties, procedures, and limitations regarding any individual who defrauds, or intends to defraud, the state, a county, or a municipality. This includes fraud by a false payment, false record, false delivery, or false receipt. Any such individual is subject to a civil penalty as established by the federal False Claims Act, and is liable for additional damages to the defrauded entity and other attorney fees or costs. Complaints may be brought by the Attorney General, the local prosecuting authority, the State Auditor, or a private person, as follows:

- The Attorney General or local prosecuting authority is responsible for investigating violations of the act and bringing civil actions as necessary. If either brings a civil action regarding a claim involving both state and local money, they shall serve a copy of the complaint to the other jurisdiction's prosecuting authority, who has the right to intervene.
- If, during the course of its audit authority, the Office of the State Auditor (OSA) identifies information of potential false claims, the State Auditor must notify the Legislative Audit Committee and the Attorney General, and may share the information with the appropriate prosecuting authority. In addition, OSA must report all fraud hotline calls alleging violations of the act to the Attorney General unless the allegation relates to a state employee in the performance of the employee's duties.
- A private person may bring a civil action in the name of the state or local jurisdiction. The Attorney General, local prosecuting authority, or both may intervene in the case, as appropriate. The private person may continue as a party to the action, though their participation may be limited by the court's discretion. The private person may be eligible for a portion of the proceeds received from the action or settlement of a claim, plus attorney fees and costs, unless the private person is a government employee whose relevant information comes from the execution of their regular work.

Any individual bringing a civil action under the act is protected from retaliation or discrimination as a result of the action.

The bill describes the activities that Attorney General may pursue when they have reasonable cause to believe that a person has violated the act, specifies the statutes of limitations for violations, and authorizes the Attorney General to conduct rulemaking as necessary to implement the act.

The bill creates the False Claims Recovery Cash Fund, which is comprised of the proceeds retained by the state from a false claims action. The Department of Law may use money in the cash fund to carry out its duties under the act, subject to annual appropriations. If the amount of the proceeds equals or exceeds the amount of the false claim plus the department's costs, an amount equal to the false claim is credited to the defrauded fund. If the proceeds are less, then the defrauded fund receives a prorated amount based on the actual money recovered.

**State Revenue**

The bill increases state revenue from civil filing fees, penalties, and damage awards to the False Claims Recovery Cash Fund. The fiscal note assumes that the amount received is at least \$300,000, based on the expenditures estimated below for FY 2023-24. Civil filing fee revenue is subject to TABOR. Cash fund revenue may increase to defrauded cash funds to the extent that civil cases are resolved in the state’s favor.

**State Expenditures**

The bill increases state expenditures by \$276,785 in FY 2022-23 and \$313,222 in FY 2023-24, primarily in the Department of Law, from various funds. Expenditures are shown in Table 2 and detailed below.

**Table 2  
Expenditures Under HB 22-1119**

<b>Cost Components</b>	<b>FY 2022-23</b>	<b>FY 2023-24</b>
<b>Department of Law</b>		
Personal Services	\$192,444	\$230,933
Operating Expenses	\$2,160	\$2,700
Capital Outlay Costs	\$12,400	-
Mileage Reimbursement	\$1,056	\$1,320
Centrally Appropriated Costs <sup>1</sup>	\$55,157	\$65,443
FTE – Personal Services	1.6 FTE	2.0 FTE
<b>Dept. of Law Subtotal</b>	<b>\$263,217</b>	<b>\$300,396</b>
<b>Office of the State Auditor</b>		
Fraud Reporting	\$11,448	\$12,826
IT System Changes	\$2,120	-
<b>OSA Subtotal</b>	<b>\$13,568</b>	<b>\$12,826</b>
<b>Total</b>	<b>\$276,785</b>	<b>\$313,222</b>
<b>Total FTE</b>	<b>1.6 FTE</b>	<b>2.0 FTE</b>

<sup>1</sup> Centrally appropriated costs are not included in the bill's appropriation.

**Department of Law.** Workload will increase to investigate potential violations and bring civil actions, as necessary. While the number of violations pursued is unknown, the fiscal note assumes that 2.0 FTE will be required to fulfill the bill’s requirements. Standard operating and capital outlay costs are included, as well as mileage reimbursement at \$0.22 per mile. Operating costs are prorated in FY 2022-23 for the bill’s effective date. If the actual workload varies from these assumptions, the department will seek adjustment through the annual budget process. In FY 2022-23, costs are paid from the Consumer Protection Custodial Fund. Civil actions resolved during FY 2022-23 are paid to the new False Claims Recovery Cash Fund, and future expenditures will be paid from this fund.

**Office of the State Auditor.** Expenditures will increase in OSA to address additional reporting to the fraud hotline. Information technology system changes are required in FY 2022-23 to track false claims, and ongoing reporting activities are estimated as 121 hours per year at \$106 per hour, prorated for the bill's effective date.

**Judicial Department.** To the extent that cases are filed under the bill, workload and costs will increase for the department, including the trial courts and agencies that provide representation to indigent persons. The fiscal note assumes that this caseload can be accomplished within existing appropriations. If additional resources are required, this will be addressed through the annual budget process.

**Department of Personnel and Administration.** Workload will increase in the Office of the State Controller to create and monitor the new cash fund. This can be accomplished within existing appropriations.

**Centrally appropriated costs.** Pursuant to a Joint Budget Committee policy, certain costs associated with this bill are addressed through the annual budget process and centrally appropriated in the Long Bill or supplemental appropriations bills, rather than in this bill. These costs, which include employee insurance and supplemental employee retirement payments, are shown in Table 2.

## Other Budget Impacts

**TABOR refunds.** The bill is expected to increase the amount of state revenue required to be refunded to taxpayers by the amount of civil filing fees received, which have not been estimated and are assumed to be minimal. This impact assumes the December 2021 LCS revenue forecast. A forecast of state revenue subject to TABOR is not available beyond FY 2023-24. Because TABOR refunds are paid from the General Fund, increased cash fund revenue will reduce the amount of General Fund available to spend or save.

**General Fund reserve.** Under current law, an amount equal to 15 percent of General Fund appropriations must be set aside in the General Fund statutory reserve beginning in FY 2022-23. Based on this fiscal note, the bill is expected to increase the amount of General Fund held in reserve by \$2,035 in FY 2022-23 and \$1,924 in FY 2023-24, which will decrease the amount of General Fund available for other purposes.

## Local Government

Revenue and expenditures will increase in local governments to the extent that they investigate violations, file civil actions, and are awarded damages. As the number of violations is unknown, the fiscal note does not estimate these impacts.

## Effective Date

The bill takes effect 90 days following adjournment of the General Assembly sine die, assuming no referendum petition is filed.

## **State Appropriations**

For FY 2022-23, the bill requires a General Fund appropriation of \$13,568 to the Legislative Department.

For FY 2022-23, expenditures for the Department of Law are paid from the Consumer Protection Custodial Fund. As a custodial fund, it is not subject to appropriation.

## **State and Local Government Contacts**

Counties	Judicial	Law
Municipalities	Personnel	State Auditor
Treasury		